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Attorneys for *Defendants* **OCWEN LOAN SERVICING, LLC and U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR GSAA HOME EQUITY TRUST 2007-3, ASSET-BACKED CERTIFICATES, SERIES 2007-3**

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PHYLLIS SANDIGO,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC and U.S.
BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR GSAA HOME EQUITY TRUST
2007-3, ASSET BACKED CERTIFICATES,
SERIES 2007-3 and DOES 1-100,

Defendants.

Case No.:

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441**

[FEDERAL QUESTION JURISDICTION]

State Court Case No. 17CV308431

Action Filed: April 11, 2017

Trial Date:

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendants Ocwen Loan Servicing, LLC ("Ocwen") and U.S. Bank National Association, as Trustee for GSAA Home Equity Trust 2007-3, Asset Backed Certificates, Series 2007-3 ("U.S. Bank") (collectively "Defendants"), by and through their counsel of record, hereby remove the above-captioned action brought by Plaintiff Phyllis Sandigo ("Plaintiff") from the Superior Court of the State of California, in and for the County of Santa Clara, to the United States District Court for the Northern District of California, on the basis of federal question jurisdiction.

1 **I. BACKGROUND**

2 1. On April 11, 2017, Plaintiff commenced an action in the Superior Court of the State
3 of California for the County of Santa Clara ("Superior Court") by filing a Complaint (the
4 "Complaint") against Defendants, which initiated *Phyllis Sandigo v. Ocwen Loan Servicing, LLC, et*
5 *al.*, Case Number 17CV308431 (the "State Court Action"). True and correct copies of the Summons,
6 Complaint, and Civil Case Cover Sheet are collectively attached hereto as **Exhibit 1**.

7 2. On April 12, 2017, Defendants were served with a copy of the Complaint. Pursuant
8 to 28 U.S.C. § 1446(b) and Federal Rules of Civil Procedure Rule 6, this notice has been timely
9 filed.

10 3. On May 8, 2017, Defendants filed an Answer to the Complaint (the "Answer"). A
11 true and correct copy of the Answer is attached hereto as **Exhibit 2**. Defendants are informed and
12 believe that the Summons, Complaint, Civil Case Cover Sheet, and the Answer constitute all
13 process, pleadings, and orders in the State Court Action.

14 4. Pursuant to 28 U.S.C. § 1446(d), Defendants will promptly give written notice of the
15 removal of the State Court Action to all adverse parties and will file a copy of this notice with the
16 Clerk of the Santa Clara County Superior Court.

17 **II. VENUE**

18 5. Pursuant to 28 U.S.C. § 1441(a), the United States District Court for the Northern
19 District of California – San Jose Courthouse is the proper venue for the removed State Court Action
20 because it is the judicial district and division in which the State Court Action is pending.

21 **III. FEDERAL QUESTION JURISDICTION**

22 6. This action is a civil action over which this Court has original jurisdiction under 28
23 U.S.C. § 1331 because the Complaint requires a determination as to whether Defendants violated
24 "laws...of the United States." *See* 28 U.S.C. § 1331. Specifically, the Complaint alleges that
25 Defendants violated The Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2605 *et*
26 *seq.*, (*see* Compl., ¶¶ 88-99.) Specifically, in connection with Plaintiff's RESPA claim, Plaintiff
27 alleges that Plaintiff "...submitted letters to Ocwen dated July 26, 2016, November 2, 2016, and
28 December 26, 2016. Each of these letters met all of the requirements for a 'Notice of Error' under

1 RESPA. The letters included, or otherwise enabled Ocwen to identify the Plaintiff's name and
 2 account, and included a statement of the reasons for the Plaintiff's belief that the account was in
 3 error" (Compl., ¶ 90.) Plaintiff also alleges that Ocwen was required to respond to these letters in the
 4 manner set forth in 12 U.S.C. §§ 2605e(1)(A) & (2) and 12 C.F.R. §§ 1024.35(d) & (e), but failed to
 5 do so, which constitutes a violation of RESPA. "(Compl., ¶¶ 92-96.)

6 By virtue of these claims, the resolution of this action will necessarily require the Court to
 7 adjudicate disputed questions of federal law. It follows that Defendants may remove the State Court
 8 Action to this Court pursuant to the provisions of 28 U.S.C. § 1441. *See Beneficial Nat'l Bank v.*
 9 *Anderson*, 539 U.S. 1, 6 (2003) ("[A] civil action filed in a state court may be removed to federal
 10 court if the claim is one 'arising under' federal law"); *see also Caterpillar Inc. v. Williams*, 482 U.S.
 11 386, 399 (1987).

12 7. To the extent Plaintiff's Complaint states causes of action that are not based on
 13 federal law, this Court has supplemental jurisdiction. This is because any such claims: (i) arise from
 14 the same set of operative facts that underlie Plaintiff's federal claims; and (ii) relate to the same
 15 subject matter; namely Ocwen's servicing of Plaintiff's mortgage loan. Accordingly, Plaintiff's
 16 state-law claims are related to Plaintiff's federal question allegations, thereby forming a part of the
 17 "same case and controversy" pursuant to 28 U.S.C. § 1367(a).

18 **IV. RESERVATION OF RIGHTS**

19 8. Defendants reserves the right to supplement this notice when, and if, additional
 20 information becomes available. In addition, Defendants reserve all rights, including, but not limited
 21 to, defenses and objections as to venue, personal jurisdiction, and service. The filing of this notice is
 22 subject to, and without waiver of, any such defense or objection.

1 WHEREFORE, Defendants pray that the State Court Action be removed from the Superior
2 Court to this Court and that this Court assume jurisdiction over – and determine – the action on the
3 merits.

4 DATED: May 11, 2017

McGLINCHEY STAFFORD

5
6 By: /s/ Adam S. Hamburg

7 ADAM HAMBURG

8 DHRUV SHARMA

9 Attorneys for *Defendants* **OCWEN LOAN**
10 **SERVICING, LLC and U.S. BANK NATIONAL**
11 **ASSOCIATION, as Trustee for GSAA Home**
12 **Equity Trust 2007-3, Asset-Backed Certificates,**
13 **Series 2007-3**
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